

JUL 06 2007

PU050099  
Serial No. 09/635,736

Customer No. 24498

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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|------------|---|-----------------|-----------|
| Applicant: | N. Allibhoy et al.  | Examiner:       | P. Nguyen |
| Serial No. | 09/635,736  | Group Art Unit: | 2143      |
| Filed:     | August 9, 2000  | Docket No.      | PU050099  |
| Title:     | A METHOD AND SYSTEM FOR CONTROLLING AND AUDITING<br>CONTENT/SERVICE SYSTEMS |                 |           |

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**CERTIFICATE OF TRANSMISSION**

I hereby certify that this document is being transmitted electronically to the United States Patent and Trademark Office via fax to 1-571-273-8300 on July 6, 2007.

/Joel M. Fogelson/  
Name: Joel M. Fogelson

**APPELLANT'S BRIEF****MAIL STOP: APPEAL BRIEF - PATENTS**

Commissioner for Patents  
Post Office Box 1450  
Alexandria, Virginia 22313-1450

Sir:

This brief is in furtherance of the Notice of Appeal in this case, timely filed on January 7, 2007. Applicant hereby appeals to the Board from the decision of the Examiner in the Final Office Action dated July 3, 2006 that rejected the pending claims 1-17. Accordingly, claims 1-17 are now on appeal. This Brief is accompanied by authorization to charge the requisite fee set forth in § 41.20(b)(2) in the amount of \$500.00 to Deposit Account 07-0832. Please charge any other fees owed in connection with this Appeal Brief to this Deposit Account, as well.

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**I. REAL PARTY IN INTEREST**

The real party in interest in this appeal is Thomson Licensing Inc., the assignee of record.

**II. RELATED APPEALS AND INTERFERENCES**

There are no appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in this appeal.

**III. STATUS OF CLAIMS**

The status of claims of all the claims in the application, claims 1-22, is set forth in Appendix A of this brief. Claims 1-17 are rejected under 35 U.S.C. §102 (e) in the Final Office Action dated July 3, 2006, and claims 18-22 have been withdrawn.

**IV. STATUS OF AMENDMENTS**

No amendments have been filed subsequent to the Final Office Action dated July 3, 2006.

**V. SUMMARY OF CLAIMED SUBJECT MATTER**

the present invention is directed to a method as claimed in Claim 1 that enhances the ability of a user to interact through a receiver 103 (Fig. 1) with a content provider 105 (Fig. 1) that provides enhanced content programming. The enhanced content programming allows the user to "actively interact with a variety of different content and service providers as opposed to only passively receiving information." (emphasis added). See Specification, page 1, lines 16-17. An example of active interaction is the ability to purchase a good or service from a third party that only has an indirect affiliation with the content provider. See Specification, lines 18-19. Accordingly, a trigger filter (See Specification, page 3, lines 2-4) is received from the receiver 103. The trigger filter performs a filtering of incoming triggers (Specification, page 8, lines 12-18; page 28, lines 4-12) that indicate the presence of enhanced content programming so that an end user, network operator, or controller can find end user specific enhanced content programming for output at the receiver 103. See Specification, page 3, lines 2-4. For example, the trigger filter may filter out triggers so that only triggers relating to a specific

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type of product the user likes are received at the receiver 103. The trigger filters are stored in a data base such as the memory 111. Further, the method detects whether a trigger is embedded in one of a plurality of enhanced content programming. See Specification, page 2, lines 28-30. The detected trigger is compared with the trigger filter. See Specification, page 28, line 13 through page 29, lines 22. For example, the user may provide a trigger filter for football so that only triggers related to football are received in order for the user to have the ability to view football enhanced content programming. See Specification, page 28, line 24 through page 29, line 18). If a trigger matches a trigger filter, the enhanced content programming is identified. See Specification, page 28, line 13 through page 29, lines 22. The enhanced content programming is then coupled to the receiver 103 so that the user can interact with the enhanced content programming.

In another aspect, the present invention is directed to another method as claimed in Claim 10 that enhances the ability of a user to interact through a receiver 103 (Fig. 1) with a content provider 105 (Fig. 1) that provides enhanced content programming. A trigger identifier (See Specification, page 3, lines 2-4) is stored in a data base such as the memory 111. Further, the method detects whether there is a trigger (Specification, page 8, lines 12-18; page 28, lines 4-12) embedded in the enhanced content from a plurality of enhanced content programming. The trigger indicates the presence of enhanced content. The detected triggers are paired with the trigger identifier. See Specification, page 28, line 13 through page 29, lines 22. The receiver is notified of available enhanced content programming when the trigger identifier matches the detected trigger. See Specification, page 29, lines 1-4.

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

Claims 1-17 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,898,762 ("Ellis").

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## VII. ARGUMENT

### A. REJECTION OF CLAIMS 1-9 UNDER 35 U.S.C. 102(e)

The Examiner rejected claims 1-9 under 35 U.S.C. 102(e) as being anticipated by Ellis. With respect to independent claim 1, Applicants previously argued in the Response dated April 11, 2006 that Ellis does not teach **a trigger that is embedded in enhanced content programming**, as recited in claim 1. See Response dated April 11, 2006, page 6. In the Office Action dated July 3, 2006, the Examiner contends that this feature has been canceled from the current claim language and that it will not be considered. Applicants point out that this feature has not been canceled from the claim language of claim 1. Accordingly, this argument should be fully considered as it clearly distinguishes claim 1 from Ellis.

Ellis is directed towards a program guide that assists a user in navigating through received content. See Ellis, col 1., lines 45-67 through col. 2, lines 1-63. The Examiner appears to argue the program guide data in Ellis is enhanced content programming because it enhances the sound or picture of a program. See Office Action dated July 3, 2006, page 2. The Examiner also appears to argue that the program guide data in Ellis is a trigger. See Office Action dated July 3, 2006, page 2. In other words, the Examiner contends that the trigger and the enhanced content programming are one in the same. However, claim 1 recites two different structures: a trigger and enhanced content programming. Further, claim 1 makes clear that the trigger is embedded within the enhanced content programming. The Examiner's interpretation discards the whole purpose of a trigger, which is to indicate to a user that enhanced content programming is available without the user actually having to view the enhanced content programming. The trigger indicates the presence of enhanced content programming so that the user can determine if he or she would like to view the enhanced content programming at the present time or a more convenient time if at all. By embedding the trigger in the enhanced content programming, the trigger can be efficiently delivered to the user's receiver at the same time as the enhanced content programming so that the user can first view the trigger. The Examiner also contends that the claim language does not require a particular structure in a television programming environment (See Office Action dated July 3, 2006, page 3), but this contention also likely stems from the Examiner ignoring

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the embedded claim limitation which clearly provides structure of how the trigger is received in a content delivery environment. Therefore, the Examiner's interpretation is unworkable as it ignores the embedded claim limitation and defeats the whole purpose of the claim.

Further, the Examiner's contention that the program guide of Ellis can be considered **enhanced content programming** is simply unfounded. As stated above, enhanced content programming differs from other content in that it allows for an active interaction with providers of goods and services that may be indirectly associated with a content provider as opposed to a passive interaction. The program guide in Ellis actually provides an excellent example of passive interaction that does not constitute enhanced content programming. For example, Ellis provides the user with the ability to **locally** navigate a program guide and view targeted advertisements and recommendations. See Ellis, col. 2, lines 47-59. There is no teaching in Ellis that actually allows the user to connect to a third party provider **remotely** for active interaction, e.g., making a purchase of a good or service. All that Ellis allows for is a user to scroll through data or watch content locally. Ellis cannot be interpreted to have a trigger embedded in enhanced content programming because there is not any enhanced content programming in Ellis in which anything, let alone a trigger, can be embedded.

Therefore, Applicants submit that the rejection of claim 1 should be withdrawn. Further, the rejections of claims 2-9 should be withdrawn as these claims depend from claim 1. With respect to claim 7, the Examiner's argument that the current programming in Ellis is overridden by enhanced content programming makes the assumption that the program guide of Ellis can be considered enhanced content programming. As discussed above, this assumption is unfounded.

#### **B. REJECTION OF CLAIMS 10-17 UNDER 35 U.S.C. 102(e)**

The Examiner rejected claims 10-17 under 35 U.S.C. 102(e) as being anticipated by Ellis. With respect to independent claim 10, Ellis does not teach a trigger embedded into enhanced content programming for the same reasons discussed regarding claim 1. Further, the Examiner argues the same limitations for claim 1 as claim 10. However, claim 10 has the limitation of notifying the receiver of **available** enhanced content

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programming when there is a match between the trigger identifier and the detected trigger. By notifying the receiver of the availability of the enhanced content programming, the user is provided with a choice of whether to accept the enhanced content programming or not. Under the Examiner's interpretation of a trigger, the user knows when there is enhanced content programming when he or she sees it. This interpretation ignores the availability feature of claim 10 that provides the user with a choice so that he or she does not have to receive enhanced content programming at an inconvenient time, e.g., when watching a regular program of interest.

Therefore, Applicants submit that the rejection of claim 10 should be withdrawn. Further, the rejections of claims 11-17 should be withdrawn as these claims depend from claim 10.

#### **VIII. CLAIMS APPENDIX**

A complete listing of the claims involved in this appeal is attached hereto as Appendix A.

#### **IX. EVIDENCE APPENDIX**

Applicants do not submit any additional evidence and, therefore, an Appendix B is hereby attached indicating "none."

#### **X. RELATED PROCEEDINGS APPENDIX**

Applicants state that there are no relevant related proceedings and, an Appendix C is hereby attached indicating "none."

#### **XI. CONCLUSION**

The Examiner has not shown in the cited prior art where one may find support for rejections of the pending claims on Appeal. There is simply no disclosure/support pointed out by the Examiner that is even relevant to the features positively recited in claims 1-17. Applicants contend that the rejections are traversed and overcome, in light of the arguments presented above.

The allowance of all claims on Appeal is therefore respectfully requested. An Oral Hearing is not requested.

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Respectfully submitted,

Date: July 6, 2007

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Serial No. 09/635,736Customer No. 24498 **JUL 06 2007****APPENDIX A****CLAIMS ON APPEAL**

The following is a listing of all claims, pending or canceled, incorporating all elements and revisions to date. All non-canceled claims are on appeal, canceled claims being canceled without prejudice or disclaimer.

1. (previously presented) A method of enhancing the ability of a user to interact with a plurality of content providers coupled to a network, the plurality of content providers offering a plurality of enhanced content via the network, wherein said user interacts with the plurality of content providers via a receiver coupled to the network, the method comprising the steps of:

- receiving a trigger filter from the receiver;
- storing said trigger filter in a data base;
- detecting a trigger embedded in one of said plurality of enhanced content programming, wherein said trigger indicates the presence of said enhanced content programming;
- comparing said detected trigger with said triggers filter;
- identifying said enhanced content programming when said detected trigger matches said trigger filter in said comparison step; and
- coupling said enhanced content programming to the receiver.

2. (previously presented) The method of claim 1, wherein said trigger filter is based on informational type.

3. (previously presented) The method of claim 1, further comprising the step of transmitting a notification indicator for an occurrence in which said detected trigger embedded in said enhanced content programming confirms to said trigger filter.

4. (original) The method of claim 3, wherein said notification indicator is an audible signal.



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5. (original) The method of claim 3, wherein said notification indicator is an on-screen graphic.

6. (original) The method of claim 3, further comprising the step of selecting said notification indicator, said selecting step performed by the receiver.

7. (previously presented) The method of claim 1, said coupling step further comprising the steps of overriding current receiver programming and directing said enhanced content programming to the receiver immediately upon detection.

8. (previously presented) The method of claim 1, further comprising the steps of:

receiving a set of priorities corresponding to each trigger filter in a set of trigger filters; and

storing said set of priorities in said data base, wherein said step of coupling is performed in accordance with said set of priorities.

9. (original) The method of claim 1, said receiving step further comprising the steps of:

monitoring each of a plurality of user transactions between the receiver and the plurality of content providers;

extracting transaction information from at least a portion of said plurality of user transactions;

storing said extracted transaction information in a data base controlled by a third party; and

forming said set of trigger filters based on a combination of at least a portion of said extracted transaction information.

10. (previously presented) A method of enhancing the ability of a user to interact with a plurality of content providers coupled to a network, the plurality of content providers offering a plurality of enhanced content programming via the network, wherein said user interacts with the plurality of content providers via a receiver coupled to the network, the method comprising the steps of:

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storing a trigger identifier in a data base;  
detecting a trigger embedded in enhanced content from the plurality of enhanced content programming, wherein said trigger indicates the presence of said enhanced content;  
pairing said detected trigger with said trigger identifier; and  
notifying the receiver of available enhanced content programming user said trigger identifier when said trigger identifier matches said detected trigger.

11. (previously presented) The method of claim 10, wherein said trigger identifier is comprised of a plurality of on-screen graphics.

12. (previously presented) The method of claim 10, wherein trigger identifier is comprised of a plurality of audible signals.

13. (previously presented) The method of claim 10, further comprising the step of receiving said trigger identifier from the receiver.

14. (previously presented) The method of claim 10, further comprising the step of receiving trigger identifier from a network operator.

15. (original) The method of claim 10, wherein said notifying step is performed upon the initial receipt of the enhanced content programming.

16. (previously presented) The method of claim 10, wherein said set of trigger identifiers corresponds to the plurality of content providers.

17. (previously presented) The method of claim 10, wherein said trigger identifier correspond to a plurality of information types.

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18. (withdrawn) A method of generating revenues for a network offering a plurality of programming options to a user via a receiver, the method comprising the steps of:

detecting a first trigger embedded within one of said plurality of programming options;

replacing said one of said plurality of programming options with at least one enhanced content program, wherein said at least one enhanced content program is provided by at least one content provider;

obtaining revenues from said at least one content provider in response to said replacing step; and

restoring said one of said plurality of programming options.

19. (withdrawn) The method of claim 18, wherein said restoring step is performed after conclusion of a predefined time period.

20. (withdrawn) The method of claim 18, further comprising the step of detecting a second trigger embedded within said one of said plurality of programming options wherein said restoring step is performed after detection of said second trigger.

21. (withdrawn) The method of claim 18, wherein said first trigger indicates commencement of a programming interruption.

22. (withdrawn) The method of claim 20, wherein said second trigger indicates conclusion of a programming interruption.

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**APPENDIX B**

**EVIDENCE**

None.

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APPENDIX C

RELATED PROCEEDINGS

None.